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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,795	02/24/2004	Tetsuro Sasaki	118836	2185

25944 7590 09/07/2006

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EXAMINER

HEINZ, ALLEN J

ART UNIT PAPER NUMBER

2627

DATE MAILED: 09/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/784,795

Applicant(s)

SASAKI ET AL.

Examiner

A. J. HEINZ

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☒ Claim(s) 7-13 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/24/04&10/29/04</u> . | 6) <input type="checkbox"/> Other: ____. |

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1. This application is in condition for allowance except for the formal matters indicated in paragraph 3&4, below.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

2. Applicant's election, with traverse, of the Group II invention[Cls.7-13] in Paper dated 24 August 2006 is acknowledged.

The traversal is on the ground(s) that because there is sufficient commonality in the subject matter of both the apparatus and method claims there is no significant burden for the examiner to examine both inventions. This is not found to be persuasive because the applicant has failed to provide substantive evidence showing, for example, that searching the additional varied and complex processes classified in class 29, when it is not required for the apparatus, would not place a greater burden upon the examiner.

The requirement is still deemed proper and is therefore made FINAL.

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Claims 1-6 are withdrawn from further consideration by the examiner, pursuant 37 CFR 1.142(b), as being drawn to the non-elected invention.

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The intended results produced by the structural differences can also be part of the content of the Title but should be made subordinate to the structural differences.

The portion of the Title directed to the method should also be deleted.

4. Claims 7-13 are objected to as being unclear as to the disclosed structure they refer to.

The claims are unclear as to existence of, or number of, 'portions' in regard to the "one principle surface" and/or "heater layer", i.e. the phrase "the other portion" (claims 7,12&13) and/or "the one portion" (claim 8) lacks clear antecedent basis in the claims.

In claims 10&11, is a word or phrase missing from between the words 'one (?) selected'; such as the phrase 'of the elements'?

An exhaustive search of ambiguous language has not been attempted, but only exemplified in the preceding paragraphs. Therefore the applicant is responsible for a thorough review of all the claims to make corrections as appropriate.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Xu, Thurn and Yanagisawa show transducer displacement mechanisms.

6. If applicant has filed an information disclosure statement and this instant office action does not contain an initialed-off copy (or copies) of all such filed IDS's (or at least a comment to the disposition of such IDS'S in the body of the office action itself) applicant should apprise the examiner of such missing documentation [to the IDS's] in response to this office action so that the examiner can take appropriate action to supply same to the applicant.

7. Claims 7-13 patentably define over the prior art but are objected to for the reasons indicated in paragraphs 3&4, supra.

Therefore Claims 7-13 would be allowed providing the issues raised in paragraphs 3&4 are resolved.

8. In addition, since this application is in condition for allowance except for the presence of claim 1-6 directed to an invention non-elected with traverse in the reply filed on 24 August 2006. Applicant is allowed the same time period as indicated in paragraph 1 to cancel the noted claims or take other appropriate action (37 CFR 1.144).

Failure to take action in regard to the non-elected claims during this period will be treated as authorization to cancel the noted claims by Examiner's Amendment and pass the case to issue.

The prosecution of this case is closed except for consideration of the above matter.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. J. HEINZ whose telephone number is (571) 272-7587. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DWAYNE BOST can be reached on (571)272-7023.

The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A. J. HEINZ
Primary Examiner
Art Unit 2627

A handwritten signature in cursive script, appearing to read "A. J. Heinz", with a long, sweeping underline.